

**KILGORE ISD**  
**School Nutrition Food Services Department**

**PROCUREMENT PROCEDURES MANUAL**

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Kilgore, Texas 75662  
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This Procurement Procedures Manual has been created to ensure that all purchases made with the Child Nutrition (CN) Federal Funds are compliant as regulated by all Federal, State, and Local written policy.

**This manual is a “living document” that is updated before the start of each new school year and as necessary. The last page contains a list of all updates and “endnotes” for all edits, updates, deletions and additions, which includes the date of each entry.**

Reviewed for updates JULY 2024.

## Overview of Procurement

### **KILGORE ISD uses the following resources for all procurement methods:**

United States Department of Agriculture's (USDA) 2 CFR part 200.318-327

Texas Department of Agriculture's (TDA) "Administrator's Reference Manual," Sections 16, 17<sup>1</sup>, 17a, 17b, and 17c,<sup>2</sup> and any other sections of the CFR or ARM as necessary.

### **The following standards will be applied to all procurement methods. Solicitations will...:**

- Allow for "full and open" competition
- Be handled with integrity and fairness to all potential bidders
- Award responsive and responsible contractors
- Be fully documented to allow for complete transparency and follow the 5-years record retention requirement

KILGORE ISD allows the School Nutrition Department to participate in the following:

### **Agreements**

1. Intergovernmental agreements (operator-only/ESC) - this type of agreement does not require the district to procure for the services offered by the cooperative.
2. Third Party Cooperatives - group purchasing organizations, group buying organizations, and third-party vendors. District must procure for services unless utilized for Micro or Small Purchase methods.
3. Agents - A Person or business that is procured to act on behalf of the CNP operator to procure products/services or perform other child nutrition services as required by district.

### **Informal Purchases**

1. Micro-Purchase: any purchase that does not exceed the State threshold of \$10,000.
2. Simplified Acquisition/Small Purchase Acquisition: any purchase that exceeds \$10,000 but is not greater than the State threshold of \$50,000.
3. KILGORE ISD does not have a more restrictive Small Purchase threshold of \$50,000.

### **Formal Purchases**

1. Competitive Bid (IFB-Invitation For Bid)
2. Competitive Proposal (RFP-Request For Proposal)
3. Non-Competitive Proposal. TDA "pre-award approval" required

### **Other Purchases**

1. Sole Source – determined by district based on the following:
  - a. Failed procurement method due to no competition

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<sup>1</sup> August 3, 2021: Removed EDGAR as reference because Child Nutrition Federal Funds are governed by USDA and TDA only.

<sup>2</sup> September 30, 2021: Updated reference manual name and added other Section 17 subsections.

- b. Point of Sale Software, based on proprietary computer coding
  - c. Warranty void risk due to proprietary chemicals used on equipment
  - d. Requires TDA approval prior to awarding the vendor or purchasing from the vendor.
2. Capital Expenditures –Costs exceeding \$5,000 for a single item that are incurred to acquire (1) capital assets or equipment or (2) to make improvements, additions, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life. USDA requires CEs to obtain approval before incurring the cost for capital expenditures. See separate section regarding Capital Expenditures.

## Procurement Phases

**KILGORE ISD will use the following 4 phases of procurement:**

**Planning.** Below is a list of the first steps that will be taken prior to any purchase.

1. What is needed in the way of product/products and/or services?
2. When are the products or services needed?
3. What is an estimated cost of the products or services needed? Multiple resources will be used to determine an “estimate” of the value or cost. The cost/price analysis will be used to determine the most appropriate procurement method.
4. How will we pay for the products and/or services?

**Forecasting.** Below is a list of the resources to be used for forecasting our needs.

1. We will review our past program to determine if the products or services were used in the previous program year.
2. Current program needs will be assessed and product amounts and/or service needs will be determined.
3. Upcoming program years will be considered in regard to future needs and possible renewal or extensions of contracts if necessary.
4. A Cost Analysis will be completed to determine the most appropriate procurement method and review of increases or decreases to the upcoming school year’s budget. The cost analysis will be completed prior to releasing any solicitations.

**Soliciting.** The following general steps will be taken to start the solicitation process. Each procurement method is more specifically outlined later in this manual.

1. Based on the cost/price analysis in our forecasting phase, the most appropriate procurement method will be used.
2. A general specification with details will be written to document the product or service needed.
3. Terms and conditions of the contract will be outlined and reviewed to ensure the solicitation clearly describes our needs and deliverables required.
4. Each solicitation will include the following information:

5. Deadline (date and time) the quotes or responses are to be received.
  - a. The method of receiving quotes and/ or responses to be submitted and to whom.
    - I. Evaluation criteria, if any is used, clearly outlined to include scoring rubric.
    - II. Date and time by which the solicitation will be awarded.
    - III. Term and Conditions of the contract and if any renewals or extensions will be allowed.
    - IV. All USDA Federal and State-required certifications and affidavits if applicable to the procurement method used.
  - b. Research will be done to identify potential suppliers.

**Awarding.** Based on the procurement method, the following general processes will be used:

1. A winner will be selected using the following methods.
  - a. Equitable distribution for all true Micro-Purchases.
  - b. Low bid winner for Small Purchases and IFB's.
  - c. A single, multiple, and/or back-up winner through evaluation criteria for Small Purchases and RFP's.
  - d. Pre-award approvals must be obtained from TDA for any solicitation that is deemed non-competitive or sole source.
  - e. Multiple winners are selected for RFP's when a "line-item" award approach is taken to procure the best price for each product specified in the solicitation.

**Contract Management.** The following items will be monitored during the life of an awarded contract by the child nutrition department to ensure compliance.

1. Use of our School Nutrition Federal Funds is compliant with all Federal, State, and local regulations.
2. That all specifications, technical requirements, and terms and conditions of all contracts are executed correctly.
3. That we are not charged for duplicative services.
4. Quantities specified are made available and delivered.
5. Delivery times and schedules are being met per contract terms.
6. Product deliveries and/or services are occurring at the correct location if multiple locations are part of the awarded contract.
7. Products and/or services meet the specifications as described in the solicitation.
8. Substitutions of products are being handled as outlined in the Terms and Conditions and are adequate to the specified product.
  - a. Contracts require a notification 24-hours prior to delivery to confirm that the substituted product is comparable and acceptable.
9. Vendor response time to product or service issues is appropriate in regard to each situation, if any.
10. Pricing received on invoices is checked against awarded bid pricing to ensure accuracy and correctness.
  - a. If incorrect pricing is charged, the vendor will be contacted to rectify the pricing and provide a credit.
  - b. If incorrect pricing is charged on a coop-procured bid, the Vendor and the coop Program Coordinator will be notified and follow up required to ensure a credit is given.

11. Damaged or spoiled products will be identified at time of delivery and immediately rejected. Invoice will be noted and signed by the driver. Proper follow up will be done to ensure a credit is issued.
12. Items ordered and appearing on the invoice but not included in the delivery will be noted on the invoice and require driver signature or initials. Vendor is required to “hot shot” the missing products or proper substitutions within a 24 hour period from time of original delivery.
  - a. If the vendor cannot “hot shot” the products, proper credit will be requested.
    - i. If the contract was procured by our coop, we will follow all above steps for managing the contract along with notifying our coop Program Coordinator of all issues with each awarded vendor.
13. The following staff positions will be held responsible for contract management of the following bids utilized by the school nutrition department:

Name of Bid or Contract #	Products or Services Procured	Staff Position Responsible
Labatt Food Services Inc	Food/nonfood items	School Nutrition Director
Hiland Dairy	Milk/juice	School Nutrition Director
Yumi Ice Cream	Ice Cream	School Nutrition Director
SW Beverages Coca Cola Inc	Coca Cola products	School Nutrition Director
Kirby Chemicals	Chemical products	School Nutrition Director
Gecko Pest Control Service	Pest control	School Nutrition Director
Clifford Power	Generac generator maintenance	School Nutrition Director

## Procurement Methods

Current Purchasing Thresholds:

1. Micro-Purchase: < 10,000 (unless CE has Self-Certified to \$50,000)
2. Small Purchase: 10,000 < 50,000
3. Formal Purchase: 50,000 <

### Informal Procurement Methods (2 CFR 200.320); ARM Section 17

Per Section 17 of the TDA ARM, “Blank ISD” will use a good general practice during the forecasting and budget process to consolidate all products and services that fall under the same category and determine the annual cost. If the estimated total annual cost for any such product or service exceeds the micro-purchase threshold, the district will determine if the Small Purchase or Formal method might be more cost effective than multiple micro-purchases and document justification for the method chosen.

KILGORE ISD will follow the below steps with each informal procurement method.

#### Purchasing Categories

The following list of categories will be used for Micro-Purchase and Small Purchase Acquisitions. Each category’s total expenditures from the previous year along with forecasted or estimated costs for the upcoming year will be reviewed to ensure that the procurement method considered is still appropriate.

<b>Assorted Expenses</b>	<b>Categories</b>
Any emergency kitchen equipment purchase <\$5,000	Equipment
Beverage display case/drink cooler	Equipment
Washer/dryer	Equipment
Any kitchen equipment parts	Equipment Parts/Service
Any kitchen equipment service	Equipment Parts/Service
Generac generator maintenance contract	Equipment Parts/Service
Service calls, any/all	Equipment Parts/Service
Office supplies	General Supplies
NSLW/SBW Celebration supplies	General Supplies
School nutrition marketing items	General Supplies
Taste testing supplies	General Supplies
Grease traps Services and Cleaning	Grease trap cleaning
Vent Hood Services and Cleaning	Vent Hood Services
Staff training	Staff training/travel
Staff training supplies	Staff training/travel
Memberships to professional organizations	Membership
Shoes, hats, clothing, aprons, anything wearable	Uniform
Small group catering	Catering
Food purchases for students with food allergies	Food allergies

### Micro-Purchases

**For micro-purchasing, aggregate purchase amount is the total cost of the same category of products and services purchased over KILGORE ISD’s fiscal year. As such, the cost of the same category of products or services purchased using the micro-purchase method is cumulative across the fiscal year and cannot exceed the \$10,000 threshold. KILGORE ISD will identify categories of purchases as listed above and apply the micro-purchase threshold to all products and services purchased in the same category.**

KILGORE ISD will distribute equally all Micro Purchases among all eligible vendors and will not apply a local or State regulation that limits the distribution of purchases to one vendor.

KILGORE ISD will apply the following regulations and processes to all Micro Purchases:

1. All unplanned, non-routine or routine purchases with an aggregate total or annual aggregate total if similar categorical products that do not exceed the threshold of \$10,000 are allowed (2 CFR 200.67) and will include:
  - a. Documentation that explains the reason for the purchase and vendor name.
  - b. List of items or services purchased.
  - c. Receipt.
  - d. All documentation will be kept in a file labeled “Micro-Purchases.”

2. Types of Micro-Purchases allowed, but not limited to:
  - a. Emergency and/or equipment repair parts
    - i. KILGORE ISD will review previous year costs and future costs to determine if this type of purchase qualifies for Micro Purchase.
    - ii. KILGORE ISD has created categories appropriate for repairs and parts that contain same-type products.
    - iii. KILGORE ISD reviews aggregate costs for
  - b. Small to medium catering events
  - c. Emergency food shortages
  - d. Staff training and travel expenses
  - e. Small kitchen equipment purchases
  - f. One-off/one-time purchase of a product or products
3. The following employee positions have permission to make a Micro-Purchase:
  - a. School Nutrition Director
  - b. Coordinator of Business Services
4. Eligible vendors.
  - a. Equitable distribution of purchases will be made to all suppliers within an appropriate proximity to the district's school sites
  - b. All suppliers within the city limits
  - c. District-approved and qualified suppliers
    - i. KILGORE ISD will ensure that any vendor interested in winning a bid to provide products and/or services, will be given the opportunity and full details on how to become an approved or qualified supplier.
    - ii. KILGORE ISD will not make the process to become an approved supplier too
    - iii. KILGORE ISD has a separate list of eligible vendors, please see attached list.
5. Interested Vendors
  - a. KILGORE ISD will ensure that any vendor with an interest in becoming "qualified" is provided with all the necessary information and assistance if needed to become "qualified"
6. Cost Reasonable and Payment for Micro-Purchases.
  - a. The cost must not exceed an amount incurred by a prudent person under similar circumstances.
  - b. KILGORE ISD will do a cost comparison to ensure the price is reasonable.
7. KILGORE ISD allows the following payment types for Micro Purchases:
  - a. Credit card to be picked up from the Business Office/CFO

### Small Purchases

**The small purchase method is an "Informal Procurement Method" where the cost of the same category of products and services purchased over the CE's fiscal year does not exceed the Small Purchase Acquisition threshold of \$50,000 (or less if the district has a more restrictive policy).**

The district must contact a minimum of 3 potential suppliers and attempt to get a minimum of 2 quotes.

#### 1. Acquisition Threshold

- a. Based on the determination through a cost/price analysis that a purchase will exceed the Micro-Purchase threshold (2 CFR 200.67) but will not exceed the State's/District's Simplified Purchase Acquisition (Small Purchase) threshold of \$50,000 or the KILGORE ISD's Local Policy of \$50,000.

**2. Allowable Types of Small Purchases:**

- a. Single/one-time purchase with an aggregate amount <\$50,000
- b. Multiple purchases of same or similar products and/or services from a prime vendor during the fiscal year with an aggregate amount <\$50,000 by commodity code.

**3. KILGORE ISD will use the following steps to make a Small Purchase (2 CFR 200.320 [b])**

- a. Identify potential suppliers; who to contact for bids; what is available on the market.
- b. Write the product and/or service specification to include details but not restrictive as to exclude competition.
- c. Conduct a cost analysis to include all products or services to be purchased along with estimated quantities.
  - i. Current pricing will be used to determine contract value and cost reasonable.
- b. Draft the solicitation to include contract terms and conditions, invoice methods, delivery and/or service requirements, duration of contract, and evaluation criteria if any is being used with the scoring rubric.
- c. Contact a minimum of 3 vendors (if possible) and provide each one with the same information to include all details of the solicitation. Emailed or faxed documents is the preferred method, but verbal delivery of solicitation details is allowed.
- d. Document vendor responses to include:
  - i. Vendor name and contact with email address and phone
  - ii. Contact method
  - iii. Price quoted to include the date received
  - iv. Duration of the price quote
  - v. If less than 3 quotes are received, explanation of why this occurred will be included in the documentation
- e. Award will go to the most responsive and responsible vendor with the lowest price or highest evaluation score if used. A responsive vendor is one whose response conforms to all the material terms and conditions of the solicitation. A responsible vendor is one whose financial, technical, and other resources indicate an ability to perform the services required.
  - i. All documentation will be kept in a file labeled "Small Purchase Acquisitions"
- f. The following employee positions have permission to make a Small Purchase:
  - i. School Nutrition Director
  - ii. Coordinator of Business Services
- g. Eligible vendors.
  - i. All suppliers that have been identified as potential bidders
  - ii. District-approved and qualified suppliers
    - 1. KILGORE ISD will ensure that any vendor with an interest in becoming "qualified" is provided with all the necessary information and assistance if needed to become "qualified"
- h. Payment for Small Purchases.



- i. PO to be created prior to the invoice payment. PO to be entered by the School Nutrition Director and approved by a Business Office official.

## **Formal Procurement Methods (2 CFR 200.320); ARM Section 17**

### **Capital Expenditures**

**Texas Department of Agriculture (TDA) requires a CE to get pre-approval on expenditures for food service equipment or alterations to equipment, only if the total equipment “per unit” cost is greater than \$5,000.**

1. KILGORE ISD will submit a request for approval prior to purchasing the item via a JOT form or TX-UNPS request to TDA including:
  - a. District Name, CE ID, and contact information (phone and email address)
  - b. Description of the equipment, including the purpose and how it supports the operation or maintenance of the District
  - c. Provide an estimated cost and whether we have sought bid pricing
  - d. Describe how the old equipment (if any) will be disposed of and acknowledge that any proceeds from the disposal will be used to offset the cost of the replacement
  - e. Acknowledge that any equipment purchased will be used exclusively (100%) by the district

### **Competitive Sealed Bidding (IFB – Invitation For Bid).**

**The competitive sealed bidding method is a “Formal Procurement Method” that is used when the contract value is at or above the Small Purchase threshold, which is \$50,000 in the state of Texas or more restrictive if the district has a lower threshold.**

#### **1. Public Advertising. The district will adhere to the following guidelines:**

- a. The publication can be digital or a combination of digital and print; the advertisement does not have to run in a single publication if a combination of multiple print and digital options is more cost effective.
- b. For a print publication that publishes other than daily, a single advertisement would count for the full number of days that the publication is in circulation.
- c. Note that a posting on the CE’s website does not count as digital advertising, but CEs are encouraged to publish links within the advertisement to allow for more information on the CE’s website.
- d. The district will include the following in the published advertisement:
  - i. Name of the district
  - ii. Address and phone number for location where any potential bidder may obtain the solicitation; a web site address may be used
  - iii. Date, time and location of the public opening if any
  - iv. Deadline for submissions
  - v. General category; or title and number of the solicitation
  - vi. How contract will be awarded
  - vii. Method and criteria for the evaluation of offers

- viii. Method of payment
  - e. The district will utilize the following methods of advertising and publications for all formal procurement methods:
    - i. Kilgore News Herald
    - ii. Kilgore ISD website
  - 2. KILGORE ISD will ensure the following conditions when preparing an IFB:**
    - a. A complete, adequate, and realistic specification or purchase description will be made available
    - b. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price
    - c. Evaluation criteria will be included in the solicitation in regard to determining a winner if the same price has been received from 2 or more different vendors
  - 3. KILGORE ISD will adhere to the following requirements in Soliciting and Evaluating an IFB:**
    - a. Conduct a cost analysis to include all products or services to be purchased along with estimated quantities.
      - i. Current pricing will be used to determine contract value and cost reasonable.
    - b. The solicitation will be publicly advertised
    - c. Provide detailed information such as response time, date and time responses are to be received, how responses must be submitted, date and time of public opening, and any other pertinent details
    - d. Provide product and/or service specifications that allow multiple responses
    - e. Award the contract to the most responsive and responsible bidder. Factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest.
    - f. Any or all bids may be rejected if there is a sound documented reason
  - 4. The following employee positions will participate in the IFB Procurement Method:**
    - a. School Nutrition Director
    - b. Coordinator of Business Services
    - c. District CFO
  - 5. The following duties will be performed by any or all assigned to evaluate the IFB:**
    - a. Write product or service specifications
    - b. Write the solicitation document
    - c. Send the IFB to potential suppliers
    - d. Participate in the opening of the submitted bid quotes and determine a winner
  - 6. Eligible Vendors**
    - a. All suppliers that have been identified as potential bidders
    - b. Only district-approved and qualified suppliers
      - i. CE will ensure that any vendor with an interest in being “qualified” is provided with the details of how to become qualified and has a fair opportunity
  - 7. Payment for IFB Purchases.
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- a. PO to be created prior to the invoice payment. PO to be entered by the School Nutrition Director and approved by a Business Office official.
8. Material Change
- a. District will review quarterly velocity reports and sales reports to ensure that the total amount spent does not exceed the contract value as forecasted.
  - b. District will ensure a year-end expenditure assessment prior to any bid renewal release to confirm that a material change has not occurred or will occur because of additional items added to the renewal bid.
  - c. If a material change is discovered, the district will release a new addendum.

### Competitive Proposals (RFP – Request For Proposal)

**A request for proposal is a “Formal Procurement Method” used for purchases when an IFB is not appropriate. An RFP describes in a general way what is needed and requests that vendors submit a proposal for servicing the needs of the district. RFP’s can be used for either goods or services and require the prospective vendor to submit a technical proposal that explains how they will meet the objectives of the solicitation document and a cost element that identifies the costs to accomplish their proposal. Price is to remain the major consideration but can be one of many evaluation factors used to determine the most advantageous winner. The RFP also allows for negotiation as a means to obtain the best value or price and award the most responsible and responsive vendor possible.**

**1. KILGORE ISD will ensure the following conditions when preparing an RFP:**

- a. A complete, adequate, and realistic specification or purchase description will be made available
- b. The procurement lends itself to a firm fixed price contract or cost reimbursable price
- c. The selection of the successful bidder will be made after an evaluation of criteria with price being the “heaviest weighted factor”
- d. Negotiation of price or best value will be handled with complete fairness and integrity

**9. KILGORE ISD will adhere to the following requirements in Soliciting and Evaluating an RFP:**

- a. Conduct a cost analysis to include all products or services to be purchased along with estimated quantities.
  - i. Current pricing will be used to determine contract value and cost reasonable.
- b. The solicitation will be publicly advertised
- c. Solicitation document will include a cover sheet with the RFP description, contact information, issue date, closing date and opening date
- d. Written instructions and bidder information sheet to be completed by the proposer
- e. Clear product and/or service specifications
- f. Clear description of district demographics and product usage (as relevant)
- g. Clearly stated evaluation criteria to include scoring rubric
- h. Standard and/or Special Terms and Conditions of the contract
- i. Discounts, Rebates, and/or credits provisions where applicable
- j. Utilize questionnaires as appropriate
- k. Reference Sheet

- I. Certifications per ARM Section 17 and Appendix II to Part 200 of 2 CFR 200:
- 2. Awarding of the contract:**
  - a. Evaluation will consist of product quality, services, or responsive and responsible bid submission, but not limited to, along with price as the heaviest weighted factor.
  - b. Cost plus percentage of cost will not be allowed as a basis for award (2 CFR 200.320)
  - c. Any or all bids may be rejected if there is a sound documented reason
3. The following employee positions will participate in the RFP Procurement Method:
  - a. School Nutrition Director
  - b. Coordinator of Business Services
  - c. District CFO
- 4. The following duties will be performed by any or all assigned to evaluate the RFP:**
  - a. Write product or service specifications (School Nutrition Director)
  - b. Write the solicitation document (School Nutrition Director & Coordinator of Business Services)
  - c. Send the RFP to potential suppliers (School Nutrition Director)
  - d. Participate in the opening of the submitted bid quotes and determine a winner (School Nutrition Director & Coordinator of Business Services & CFO)
5. Eligible vendors.
  - a. All suppliers that have been identified as potential bidders
  - b. Only district-approved and qualified suppliers
6. Payment for RFP Purchases.
  - a. PO to be created prior to the invoice payment. PO to be entered by the School Nutrition Director and approved by a Business Office official.
7. Material Change
  - a. District will review quarterly velocity reports and/or sales reports to ensure that total amount spent does not exceed the contract value as forecasted.
  - b. District will ensure a year-end expenditure assessment prior to any bid renewal release to confirm that a material change has not occurred or will occur because of additional items added to the renewal bid.
  - c. If a material change is discovered, the district will release a new addendum.

### Non-Competitive Negotiation and Sole Source Procurements

**These types of procurement methods are used to compensate for the lack of competition. This lack of competition may result from overly restrictive solicitation documents, an inadequate number of suppliers in the area or the procurement environment may have been compromised by inappropriate supplier actions (i.e., market allocation schemes). Non-competitive negotiation occurs after the solicitation (sealed bid, competitive negotiation or small purchase) has been issued, but competition on that solicitation has been deemed inadequate.**

Non-competitive negotiations or sole source procurements are restricted to specific situations and may only be used when:

**1. Inadequate competition in a formal procurement method**

a. KILGORE ISD will follow through with the following procedures when a single quote or bid response is received:

- I. Research the reasons for a single response
- II. To the best ability possible, determine if the bid was too restrictive or released in a way that prevented open and fair competition
  - a. Document reason for inadequate responses
  - b. Release a new bid and correct any items that created restrictions
  - c. Follow proper procurement procedures as outlined in this manual with new advertisement and corrections to allow more competition.
- III. If determined that no other company is able to provide the goods or services and qualifies as a Sole Source, follow the outlined steps below.

**b. Determining if the Products or Services Solicited Qualify as a “Sole Source”**

1. The solicitation was adequate and allowed for open and fair competition
2. The single responder is a responsive and responsible bidder
3. The product or services are only available from one the single supplier
4. If a single bidder qualifies as a “sole source,” the process for pre-award approval will be followed.

**c. Sole Source Pre-Award Process**

1. KILGORE ISD will document all bidding activities and submit the “Noncompetitive Procurement Request Form” found on the squaremeals.org website.
2. KILGORE ISD will wait to receive the approval to award a sole source vendor from TDA
3. KILGORE ISD will award the sole source bidder with approval

**2. Public emergency exists**

- a. KILGORE ISD will obtain TDA’s approval prior to award and purchase of products or services. All requests for approval must be submitted through the State Agency’s online system, TX-UNPS.

**3. The following employee positions will oversee the approval process for a Non-Competitive and/or Sole Source Procurement Method:**

- a. School Nutrition Director
  - I. Research for like vendors or service providers, as appropriate
  - II. Review research with Business Office Manager, as appropriate
  - III. Gather all documentation of sole source procurement
  - IV. File appropriate jot form with TDA
  - V. Retain all documentation of approval or denial

## Procurement Standards

### Bid Protest Procedures

Any interested party may protest any of the following situations:

- a. Solicitation or other request for offers for a contract for the procurement of property or services
- b. Cancellation of a solicitation or other request
- c. Award or proposed award of a contract
- d. Termination of a contract, if the protest alleges that the termination was based on improprieties in the administration of the contract.

**KILGORE ISD will do the following for every bid:**

- a. Include clear instructions in each solicitation document about questions and protest procedures.
- b. KILGORE ISD will allow respondents to request clarification of information prior to the close of the bid/proposal.
- c. Notify bidders that protest requests must be received a minimum of 3 business days prior to the close of the bid/proposal.

**KILGORE ISD will do the following in response to bid protests:**

- a. KILGORE ISD will address all respondent protests within 24 hours of the bid award.
- b. Follow all written procedures to resolve protests.
- c. KILGORE ISD will provide evaluation scores and pricing at the request of the respondent. Violations of law should be referred to the local, state or Federal authority. (2 CFR, Section 200.318[k])
- d. Notify TDA when a protest is received.
  - a. The district will email TDA with the details of the protest to the following address:  
[School.Operations@TexasAgriculture.gov](mailto:School.Operations@TexasAgriculture.gov)
- e. Retain all documentation related to a protest.
- f. KILGORE ISD will address the request for additional information as an addendum to all respondent, and
- g. Ensure that all protests are addressed

### Contract Disputes, Terminations/Non-Renewals

Kilgore ISD will take action to remedy any circumstances where the contractor does not provide products and/or services that meet the expectations and apply the options to terminate or not renew a contract based as allowed by the terms and conditions of the contract.

Kilgore ISD will document efforts related to a possible or actual termination or non-renewal of a contract.

When there is a dispute, Kilgore ISD will follow its written procedures and terms and conditions of the contract to resolve the dispute. This will include but is not limited to, the following actions.

- a. Raise the issue with the contractor, communicating specifically how the problem can be resolved to meet the specifications and/or technical requirements for the products and/or services, as described in the solicitation and contract.
- b. Provide the contractor with written notification of the issue and state that immediate correction is expected, and failure to do so will be considered a breach of contract and could result in the termination of the contract.
- c. Provide the written notification by a method that will date stamp the day sent, and the date received.

If a contractor continues to be unable to provide the contracted products and/or services, Kilgore ISD will determine if termination of the contract or non-renewal of the contract is warranted. Should the district choose to terminate the contract or not renew a contract, the district will perform this action according to the terms and conditions of the contract.

Kilgore ISD will retain all documentation, demonstrating actions taken to resolve the issue and the result of each action.

Kilgore ISD may determine that the termination of a contract may prevent the contractor from future bidding as a non-responsible contractor. Kilgore ISD maintains the right to reject a terminated contractor's bid, even if lowest cost or best evaluation score, based on documentation of poor performance or previous contract termination.

### Economic Price Adjustments in Vendor Contracts

The economic price adjustments, which allow a District to adjust costs in the contract, must be tied to an appropriate standard or cost index. Relating the price adjustments in a contract to an index allows the District to ensure that increases under the contract are not without basis. For example, if fuel prices are increasing drastically, an appropriate index such as the Consumer Price Index (CPI) will reflect this change.

This index is preferred because the USDA uses this index for the National School Lunch Program (NSLP) yearly funding increases. The intention is that if the USDA increased funding by a certain percentage the District would be able to allow the increase in food cost to rise at the same percentage. Vendors will be able to bid on multi-year contracts that allow for inflation and the District will be able to maintain a consistent level of service and food cost percentage from year to year.

### Applying Geographic Preferences in Procurement; Defining Local

As amended, the National School Lunch Act (NSLA) allows SFA's receiving funds through the CN Programs to apply a geographic preference when procuring unprocessed, locally grown or locally raised agricultural products. This applies to operators of all of the School Lunch Programs.

KILGORE ISD will apply geographic preference to the procurement of agricultural products that:

1. Are unprocessed and retain their inherent character
2. Are locally grown or locally raised
3. Have not been cooked, seasoned, canned, or combined with any other products

USDA regulations give the local entity the authority to define local as long as the definition does not restrict full and open competition. USDA regulations also prohibit any state agency from mandating a definition for local.

Per TDA, for procurement, the CE may define its local geographic areas as areas located within a specified number of miles or within a geographic boundary (county, state, or multi-state). It may use different geographic areas for different types of products and for different seasons.

KILGORE ISD will provide clear instructions and information in each solicitation as to our definition of local and evaluation criteria. "KILGORE ISD will adhere to the policy of using their USDA Federal Funds in the most efficient way possible.

KILGORE ISD determines local as:

1. Within the United States territory of the state of Texas.

### **Discounts, Rebates, and Credits**

KILGORE ISD requires that all discounts, rebates, and credits accrue back to the school nutrition account. The contractor will be required to identify the amount of each discount, rebate, or other applicable credit on bills and invoices presented to the KILGORE ISD. Contractors will be required to identify the method by which they will report discounts, rebates, and credits. All discounts, rebates, and credits will be tracked via monthly invoices or annual velocity reports. Contractors will be required to maintain documentation of costs, discounts, rebates, and credits and make those available to KILGORE ISD upon request.

### **Buy American Provision**

KILGORE ISD adheres to the Buy American Provision (7 CFR 210.21) when purchasing commercial food products to be served in the district's SNP meals. This provision will be included in all solicitations for food to be used in the school nutrition programs.

Per Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 {Public Law 105-336} added a provision, Section 12(n) to the NSLA (42 USC 1760(n)), requiring School Food Authorities (SFA's) to purchase, to the maximum extent practicable, domestic commodity or product. Section 12(n) of the NSLA defines "domestic commodity or product" as an agricultural commodity that is produced in the United States and a food product that is processed in the United States using substantial agricultural commodities that are produced in the United States. Substantial" means that over 51 percent of the final processed product consists of agricultural commodities that were grown domestically. Products from Guan, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States. The Buy American provision (7 CFR Part 210.21(d)) is one of the procurement standards SFA's must comply with when purchasing commercial food products served in the school meals programs.

KILGORE ISD will purchase domestic food products per the Buy American Provision unless:

1. The product needed is not produced or manufactured in the U.S. in sufficient and reasonable available quantities of a satisfactory quality; or



2. Competitive bids reveal the costs of a U.S. product are significantly higher than the non-domestic product

KILGORE ISD will maintain all documentation regarding any food purchases that are deemed “non-domestic” to include cost comparisons if the product is available as a “domestic” product that is seen as unreasonable in cost; or if not available as a U.S. grown product the documentation will include the “country of origin.”

### **Cost Analysis**

KILGORE ISD will conduct a cost analysis before issuing a solicitation. In conducting a cost analysis, staff will use the tools that are also used in forecasting as well as any other available tools or strategies that may help identify the estimated cost of the products and/or services to be purchased. The method and depth of the cost analysis is dependent on the complexity of the products and/or services to be purchased.

KILGORE ISD will use the following tools and information to create the cost analysis:

1. List of products planned to purchase
2. Prior vs current year potential cost for comparison, or
3. Current year vs proposal pricing comparison
4. Analysis will include a review of single price and extended cost based on estimated quantities
5. Totals will be looked at for budget planning and determination of reasonableness
6. When relying on a purchasing cooperative for bid procurement, KILGORE ISD will follow cooperative membership roles or ask the cooperative for the cost analysis and review planned products for purchase as a determination for cost reasonableness and compliance with allowable expenditures.

### **Small and Minority Businesses, Women Business Enterprises, and Labor Surplus Area Firms and/or Disabled Veteran Business Enterprise (MWDVBE)**

KILGORE ISD will encourage open competition amongst small, minority, woman, and disabled veteran’s businesses by:

1. Reducing barriers in Formal and Informal Contract solicitations by:
  - a. Allowing for businesses that may be MWDVBE to compete on an equal footing. This will be accomplished by having a qualification process where MWDVBE bids are given points equal to the requirements that may be restrictive, such as length of service in business, size of distribution facilities, etc...
  - b. Allowing for extra points in the evaluation if a bidder/proposer qualifies as an MWDVBE
  - c. Structuring contracts to allow “awards to more than one Proposer in the best interest of the District in order to award a portion of the agreement to MWDVBE vendor that may not be able to perform to an agreement that is too large for current financial/logistical capabilities.
2. Structuring Contracts that May allow for Cost Credit to Small, Minority and Women owned businesses:
  - a. KILGORE ISD may structure an RFP Formal Procurement agreement to allow for price variation of not more than 5% of total cost above the lowest responsive bidder to award to a small, minority or women owned business.

For example, the lowest bidder was \$100 dollars, a certified small, minority or women owned enterprise bid \$105, the contract may be awarded to the small, minority or women owned enterprise if it is in the best interest of the district.

### 3. Providing Positive Outreach

- a. KILGORE ISD will place qualified small, minority and women owned enterprises on solicitation lists; and
- b. Assure that small, minority and women owned enterprises are solicited whenever they are potential sources

### Local Sourced Products: Farm to School Initiative

KILGORE ISD is committed to local markets and family farmers in the State of Texas. Our objective is to support the local agricultural economy and reduce the environmental impact of long-distance shipping. KILGORE ISD defines “Local Sources Products” as products that are grown within the State of Texas.

When purchasing local sourced products, KILGORE ISD will follow the planning phase as stated earlier in this manual and do a cost/price analysis to determine the most appropriate procurement method.

In order to encourage the bidders to purchase locally sourced produce, KILGORE ISD may assign additional point values in the “Award of Contract” section of the solicitation that can demonstrate:

1. The bidder is purchasing produce locally by submitting a list of local farmers, their addresses, the produce that is anticipated to purchase from each farm location, and the anticipated harvest dates of the produce
2. The bidder must also agree to the ability to submit a report during the term of the contract that demonstrates continued purchases from local farms

### Use of Excess and Surplus Property

KILGORE ISD, to the best of the district’s ability, may utilize excess and surplus property when available. The TDA allows a district to use a significant portion of our entitlement (PAL) allocation from USDA to purchase DOD fresh fruit and vegetable products. The TDA manages the solicitation and award of the DOD Produce Vendors. Contracting Entities (CE’s) in the state of Texas and participating in the DOD Fresh Program can receive weekly deliveries as outlined in the awarded contract.

### Recalls

KILGORE ISD will use the following procedures in regard to products that have been recalled, or are discovered to be defective or faulty:

1. The School Nutrition Director will register for email notifications of recalled products through USDA Food Safety and Inspection Service ([usfsis@public.govdelivery.com](mailto:usfsis@public.govdelivery.com)) and/or [recalls.gov](http://recalls.gov) or any other viable resource in regard to food and product safety and recalls
2. Vendors’ Recall procedures will be requested with every Small Purchase, IFB and RFP procurement method used

3. Any notices or alerts from awarded vendors or distributors in regard to a recalled product will be handled immediately, following all instructions from the vendor or distributor in regard to the handling of the recalled product
4. Actions may include but not be limited to:
  - a. Disposal of all affected product
  - b. Photos of products affected, documentation of case lot numbers, distributor codes or any other pertinent information as documentation of product origin
  - c. Removal of affected product to a safe area to be picked up by the vendor or distributor
  - d. Credits issued for all affected product that could not be used

### Unnecessary or Duplication of Goods and/or Services

KILGORE ISD will avoid acquisition of unnecessary or duplicative items/services. KILGORE ISD will adhere to the following:

1. Implement internal controls to ensure that the district does not engage in contracts with duplicative services (paying for the same service twice) from the same contractor or different contractors.
  - a. Appointed staff members will review all Contracts and all products that are planned to be purchased from cooperatives and/or Food Service Management Companies to ensure that all purchases will not create payment for duplicative services.
  - b. Memberships in cooperatives will be reviewed to ensure that all products planned for purchase are not receiving a duplicated indirect fee.
2. Appointed staff will determine if there are any like items in the District that may not be in use and consider transferring items before determining if purchase is necessary.
3. Appointed staff will confirm the item(s) being purchased are needed to serve, prepare, receive, transport or be stored for the planned menus.
4. Appointed staff will confirm any equipment items planned for purchase are replacing an obsolete, broken, damaged or outdated piece of equipment.

### Cooperative Membership and Procurement

The USDA allows for “Purchasing Goods and Services Using Cooperative Agreements, Agents, and Third-Party Services.

KILGORE ISD may participate in a purchasing cooperative when it is determined to be in the best interest of the district. As a governmental agency, KILGORE ISD has the option to legally join a “governmental agency or Education Service Center (ESC) agency” purchasing cooperative through an Interlocal or InterAgency Agreement.

If determined in the best interest to join an ESC Agency cooperative, KILGORE ISD will request a copy of the Interlocal or InterAgency Agreement and complete and submit to the appropriate contact of the co-op. KILGORE ISD will do the following once membership in the cooperative has been confirmed:

1. Provide product estimated quantities planned for purchase for each bid selected.
2. Review that all procurement documents and cooperative processes have been conducted in accordance with applicable Federal, State and local regulations.
3. Will confirm that their addition to any contract selected does not create a material change as outlined in the contract per 2 CFR 200.318[e] that states a material change occurs when the change in scope of the contract is significant enough that potential bidders might have bid differently had they been aware of the impacts from adding additional agencies.
  - a. Will review each solicitation document regarding material change threshold to confirm that the additional purchases will not exceed the contract value threshold.
  - b. Will confirm how the cooperative tracks additional items if any and contract values.
4. Will confirm any USDA foods rebates, credits, or discounts are received.
  - a. Will ensure that all USDA foods discounts are shown in the bid catalogs.
  - b. Will review each invoice received against bid documentation for USDA foods discounts for correctness.
  - c. Will ensure that the documented discount is the amount received from the awarded vendor.
  - d. Will verify appropriate amounts of donated foods drawdown have occurred through use of the tracking systems for commodity usage.
5. Cooperative Fees or Charges and/or Rebates.
  - a. Any fees or charges from the cooperative for membership will be reviewed and reconciled based on the terms and payments per the cooperative agreement.
  - b. KILGORE ISD reconciles all fund accounts in the month of September. Cooperative fees will be reviewed at that time.
  - c. Rebates from the cooperative fees paid directly or any type of vendor participation fees paid indirectly that the cooperative collects will be tracked or confirmed received per the cooperative agreement regarding such rebates.
  - d. District will ensure the cooperative has provided a timeline for rebates and adheres to that timeline for payments owed if any.
    - i. District will ensure that the cooperative agreement outlines the process used to cover cooperative costs and overhead along with the reporting and rebate schedule.
6. District will ensure that the cooperative provides 24/7 access to all documentation related to the solicitation before it is released, bid responses and contracts for compliance. All documents will be reviewed and downloaded to ensure district can stay compliant with records retention requirement to include but not limited to:
  - a. Solicitation
  - b. Verification of Published Advertisement
  - c. Contract Terms and Conditions
  - d. Evaluation Criteria
  - e. Responses to include certifications and pricing
  - f. Evaluation Committee Scores
  - g. Notification of Awarded vendor(s)
  - h. Documentation of any extensions or Amendments
    - i. Recall Procedures

## Appendix of Certifications

The following certifications will be used in all formal procurement methods. Each will be listed in the Terms and Conditions and/or a separate document requiring a signature or initial indicating contractor/vendor agrees.

Intangible Property	<a href="#">2 CFR 200.315</a>
Procurement of Recovered Materials/Solid Waste Disposal	<a href="#">2 CFR 200.323(b)</a>
Profit as a Separate Element of Price	<a href="#">2 CFR 200.324</a>
Record Retention Requirements	<a href="#">2 CFR 200.334</a>
Rights to Inventions	<a href="#">37 CFR §401.2 (c)</a>
Anti-trust Certification	Section <a href="#">2155.005</a>
Certification of Residency	<a href="#">Chapter 2252, Subchapter A</a>
Companies Engaged in Business with Iran, Sudan, or a Foreign Terrorist Organization	<a href="#">Chapter 2252, Subchapter F</a>
Compliance with the Energy Policy and Conservation Act	<a href="#">Pub. L. 94-163, 89 Stat. 871</a>
Compliance with Texas Family Code	Section <a href="#">231.006</a>
Food/Product Recall and HACCP Procedures	<a href="#">7 CFR 250.15(c)</a>
Form 1295	Section <a href="#">2252.908</a>
Health & Safety Certificates, Licensing and Regulation	<a href="#">ARM Section 17</a>
No Israel Boycott	<a href="#">Section 808.001</a>
Prohibited Employment Assistance	<a href="#">20 USC 7926</a>
Non-Collusion Declaration	<a href="#">Section 15.01</a>
Non-Collusion Affidavit	<a href="#">Section 15.01</a>
Signature and Declaration of Compliance	Notary of Public Required
Proposal Form	<a href="#">200.326 Appendix I To Part 200</a>
Breach of Contract Terms, Sanctions and Penalties	<a href="#">200.326 Appendix II to Part 200 (A)</a>
Termination for Cause or Convenience	<a href="#">200.326 Appendix II to Part 200 (B)</a>
Certificate of Insurance	<a href="#">2 CFR 200.447</a>
Cooperative Agreements	<a href="#">ARM Section 17c</a>
Byrd Anti-Lobbying	<a href="#">2 CFR 200.450; 200.326 Appendix II Part 200 Sec. "I"</a>
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion for Covered Contracts	<a href="#">200.326 Appendix II To Part 200 Sec H</a>
Davis-Bacon Act (construction bids only)	<a href="#">200.326 Appendix II Part 200 Sec. "D"</a>
Copeland "Anti-Kickback" Act (construction bids only)	<a href="#">200.326 Appendix II Part 200 Sec. "D"</a>
Clean Air and Water Certificate	<a href="#">200.326 Appendix II Part 200 Sec. "G"</a>
Equal Opportunity Employment	<a href="#">200.326 Appendix II Part 200 Sec. "C"</a>
Contracting with Small, Minority, Women Business Enterprises, and Labor Surplus Area Firms	<a href="#">2 CFR 200.321</a>
Conflict of Interest Questionnaire	<a href="#">24 CFR § 3282.359</a>
Disclosure of Lobbying Activities	<a href="#">Appendix B To Part 418 2 CFR</a>
Felony Conviction Notification	<a href="#">21 CFR 1301.90</a>
Nutrition Services Certification For "Buy American" Provision	<a href="#">7 CFR 210.21 Sec. D</a>
Nutrition Services "Buy American Waiver Exception List	<a href="#">7 CFR 210.21 Sec. D</a>
Certificate Regarding Workers Compensation	<a href="#">48 CFR 970.2803-1</a>
Certificate Regarding Drug-Free Workplace	<a href="#">38 CFR § 48.635</a>
Certificate Regarding Alcoholic Beverage And Tobacco-Free Campus Policy	<a href="#">21 CFR § 1140.1</a>
E-Verify	<a href="#">48 CFR 52.222-54</a>
Iran Contracting	<a href="#">48 CFR 25.703-3</a>
Civil Rights/Discrimination	<a href="#">2 CFR 3187</a>
Solid Waste Disposal Act	Section 600 as amended by the Resource Conservation and Recovery Act
W9	<a href="#">Most Current Version Required</a>

## UPDATE RECORDS AND ENDNOTES

This manual is updated every year and as necessary based on changes to the TDA ARM.

September 12, 2020: Manual updated for SY21.

January 6, 2021: Update to the Cost Analysis section.

August 16, 2021: Manual updated for SY22. Several major entries and changes due to updates in the TDA ARM dated June 2021.

November 14, 2022: Removed all language pertaining to Micro-Purchase threshold self-certification to higher amount. TDA has retracted language that CE's are allowed to do this. Micro-Threshold remains at 10K for annual aggregate in categories of same-type products.

July 26, 2023: Public Advertisement updated. Added sample list of categories.

August 4, 2023:

Additional "Material Change" language was added to pages 10 and 12.

Additional language was added to pages 20-21 under Cooperative Membership and Procurement regarding rebates, credits, and discounts of USDA foods; fees and rebates from cooperatives; and access to all cooperative documentation.

Additional language on page 15 regarding how TDA will be notified on protests received.

Added a list of categories for Micro-Purchase and Small Purchase procurement methods.

October 13, 2023: Added language regarding "Self-Certification" to Micro Purchase threshold. TDA began allowing RAs (CEs) to self-certify in 2023.

July 1, 2024: Manual reviewed for SY25. No new guidance was added per TDA ARM. Some general language was cleaned up to match more closely with wording found in the TDA ARM.

- Removed "Procurement Standards" with list from bottom of page 14 into 15. This was a list of what was included in the document and is now in the form of a Table of Contents.

- Updated links; changed some verbiage to match ARM language; general review and clean up.

December 15, 2023: Added last page of changes to manual. Moved Updated line on title page to the end. Added updated October 2023 update language on title page.

November 2024-Added section on contract disputes, terminations and non-renewals.